

1960

## c 53 Child Welfare Act

Ontario

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## CHAPTER 53

## The Child Welfare Act

## 1. In this Act,

Interpre-  
tation

- (a) "children's aid society" or "society" means a children's aid society approved by the Lieutenant Governor in Council under this Act;
- (b) "Director" means the Director of Child Welfare appointed under this Act;
- (c) "local director" means the local director of a children's aid society appointed under this Act;
- (d) "Minister" means the Minister of Public Welfare;
- (e) "municipality" means a county, city or separated town, but in a territorial district "municipality" means a city, town, village or township;
- (f) "regulations" means the regulations made under this Act. 1954, c. 8, s. 1.

## PART I

## OFFICERS, SOCIETIES

2.—(1) The Lieutenant Governor in Council may appoint a person as the Director of Child Welfare. 1954, c. 8, s. 2 (1).

Appoint-  
ment of  
Director

## (2) The Director shall,

Duties of  
Director

- (a) advise, inspect and supervise children's aid societies;
- (b) exercise the powers and duties of a children's aid society in any area in which no society is functioning;
- (c) inspect or direct and supervise the inspection of any place in which a child in the care of a society is placed;
- (d) prepare and submit an annual report to the Minister;

- (e) keep books of account of all moneys received by him, showing the receipts and expenditures;
- (f) perform such other duties as are prescribed by this Act or the regulations or by the Lieutenant Governor in Council. 1954, c. 8, s. 2 (2); 1956, c. 8, s. 1; 1957, c. 12, s. 1.

Acting  
Director

(3) Where the Director is absent or there is a vacancy in the office, the powers and duties of the Director shall be exercised and performed by such civil servant as the Minister designates. 1954, c. 8, s. 2 (3).

Appointment  
of local  
directors

**3.—**(1) Every children's aid society shall appoint a local director who shall be responsible to the board of directors of the society for the administration and enforcement of this Act and the regulations in the area in which the society has jurisdiction, who shall co-operate with the Director to this end, and who shall carry out such other duties as are required of him by the constitution, by-laws and instructions of the society.

Powers of  
local  
directors,  
etc.

R.S.O. 1960,  
c. 318

(2) Every local director and every person designated by the board of directors of a society has for the purposes of this Act the powers of a constable and a school attendance officer, and he shall be deemed to be an officer within the meaning of section 10 of *The Public Authorities Protection Act*, and that section and the other provisions of that Act apply to him in the same manner and to the same extent as they do to the officers mentioned in that section. 1954, c. 8, s. 3.

Police  
assistance

**4.** The Director or a local director or any person acting under the authority of either of them may call to his aid in the performance of his duties a member of the police force responsible for policing the area in which the aid is required. 1954, c. 8, s. 4.

Power to  
take  
affidavits

**5.** The Director and every local director and every person authorized by the Director has power to take affidavits and statutory declarations for the purposes of this Act in the same manner and to the same extent as a commissioner for taking affidavits in Ontario. 1954, c. 8, s. 5.

Establish-  
ment of  
societies

**6.—**(1) A children's aid society may be established having among its objects the protection of children from neglect, the care and control of neglected children, assistance to unmarried parents, the placement of children in adoption, the supervision of children placed in adoption until an order of adoption is made and generally the discharge of the functions

of a children's aid society under this Act, but no society shall act as such until it has been incorporated under *The R.S.O. 1960, Corporations Act* or a predecessor thereof and until it has <sup>c. 71</sup> been approved by the Lieutenant Governor in Council. 1954, c. 8, s. 6 (1); 1956, c. 8, s. 2.

(2) The by-laws of every society shall contain such pro-By-laws  
visions as the regulations prescribe, and a certified copy of the by-laws and any amendments thereto shall be filed with the Director forthwith after they are made and no such by-law or amendment shall come into operation until it has been approved by the Minister. 1954, c. 8, s. 6 (2).

7.—(1) A children's aid society shall be governed by a Board of  
board of directors composed of the president, one or more directors  
vice-presidents, the secretary, the treasurer, one or more  
municipal representatives and such other officers and members  
as are determined, elected in such manner and for such  
period as the by-laws of the society provide.

(2) Where the number of directors of a society is more than Executive  
nine, the directors shall pass a by-law directing them to elect committee  
from among their number an executive committee consisting  
of not less than five and not more than nine members, includ-  
ing the president, the treasurer and one or more municipal  
representatives, and to delegate to the executive committee  
any powers of the board of directors, subject to the restrictions,  
if any, contained in the by-law or imposed from time to time  
by the board.

(3) A majority of the members of an executive committee Quorum  
constitutes a quorum. 1954, c. 8, s. 7.

8. For the purposes of section 7 and subject to the by-Interpre-  
laws of the society, "municipal representative" means a tation  
member of a municipal council of a municipality in the area  
in which the society has jurisdiction. 1954, c. 8, s. 8.

9.—(1) There shall be paid to each children's aid society Annual  
an annual grant of such amount as the regulations prescribe. grants to  
societies  
1956, c. 8, s. 3, *part*.

(2) Where a society has erected, purchased or otherwise Grants to  
acquired a building for use for any purpose under this Act societies  
and the Minister has approved in writing the building and in aid of  
the purpose of its use, the Lieutenant Governor in Council cost of  
may direct payment to such society of an amount up to 25 buildings  
per cent of the cost to the society of the building and the land  
on which it is situated. 1957, c. 12, s. 2.



Idem

(3) There shall be paid to each society having jurisdiction in territory without municipal organization an additional annual grant of such amount as the regulations provide to assist it in the provision of protection services to children living in such territory.

Source

(4) The amounts payable under this section shall be paid out of the moneys that are appropriated therefor by the Legislature. 1954, c. 8, s. 9 (2, 3).

Dissolution  
of  
societies

10. The Lieutenant Governor may at any time dissolve a children's aid society on such date as the order provides, and upon the dissolution of a society its property vests in the Crown to be held and disposed of in such manner as the Lieutenant Governor in Council determines. 1954, c. 8, s. 10, *amended*.

## PART II

## PROTECTION AND CARE OF NEGLECTED CHILDREN

Interpre-  
tation

## 11.—(1) In this Part,

- (a) "boarding home" means a home or dwelling in which a child is placed and kept upon payment of compensation, whether the home or dwelling is privately occupied or forms part of, or is connected with, a hospital or a correctional, custodial, charitable or other institution;
- (b) "child" means boy or girl actually or apparently under sixteen years of age;
- (c) "foster home" means a home, other than the home of his parent, in which a child is placed for care and supervision;
- (d) "judge" means the judge or a junior judge or acting judge of a county or district court, the judge or a deputy judge of a juvenile and family court, or a magistrate, where the magistrate has been designated by the Lieutenant Governor in Council a judge for the purposes of this Part;
- (e) "neglected child" means,
  - (i) a child who is an orphan and who is not being properly cared for, or who is brought, with

the consent of the person in whose charge he is, before a judge to be dealt with under this Part,

- (ii) a child who is deserted by the person in whose charge he is or that person has died or is unable to care properly for him,
- (iii) a child where the person in whose charge he is cannot by reason of disease or infirmity or misfortune or incompetence or imprisonment or any combination thereof care properly for him,
- (iv) a child who is living in an unfit or improper place,
- (v) a child found associating with an unfit or improper person,
- (vi) a child found begging or receiving alms in a public place or carrying on a street trade contrary to this Part, or loitering in a public place after 9 o'clock in the evening after being warned as provided in subsection 4 of section 36,
- (vii) a child who, with the consent or connivance of the person in whose charge he is, commits any act that renders him liable to a penalty under any Act of the Parliament of Canada or of the Legislature or under any municipal by-law,
- (viii) a child who is delinquent or incorrigible by reason of the inadequacy of the control exercised by the person in whose charge he is or who is being allowed to grow up under circumstances tending to make him idle or dissolute,
- (ix) a child who, without sufficient cause, habitually absents himself from his home or school,
- (x) a child when the person in whose charge he is neglects or refuses to provide or secure proper medical, surgical or other remedial care or treatment necessary for his health or well-being, or who refuses to permit such

care or treatment to be supplied to the child when it is recommended by a duly qualified medical practitioner,

- (xi) a child who is emotionally rejected or deprived of affection by the person in whose charge he is to a degree that on the evidence of a psychiatrist who is on the register of specialists in psychiatry of the Royal College of Physicians and Surgeons of Canada or of the College of Physicians and Surgeons of Ontario is sufficient to endanger his emotional and mental development, or
- (xii) a child whose life, health or morals may be endangered by the conduct of the person in whose charge he is;
- (f) "parent" means a person who is under a legal duty to provide for a child;
- (g) "place of safety" means a receiving home or an institution for the care and protection of children;
- (h) "public place" means a place, building or conveyance to which the public has, or is permitted to have, access;
- (i) "rate" means the average daily cost to a children's aid society of providing for the welfare of a child or ward who is living in an institution or home other than the home of his parent;
- (j) "receiving home" means an institution or home operated or supervised by a children's aid society for the temporary care of children;
- (k) "ward" means a person committed to the care and custody of a children's aid society.

By whom  
cases to  
be heard

(2) Where there is a juvenile and family court, cases under this Part shall be heard by the judge or a deputy judge of that court, and, where there is no juvenile and family court, cases under this Part shall be heard by the judge, junior judge or acting judge of the county or district court or by a magistrate designated a judge for the purposes of this Part. 1954, c. 8, s. 11.

**12.** A constable or other police officer, the Director, a local director or a person authorized by the Director or by a local director may apprehend without warrant and take to a place of safety any apparently neglected child and detain the child there until the child can be brought before a judge, or he may apply to a judge for an order requiring the person in whose charge the child is to produce the child before a judge at the time and place named in the order. 1954, c. 8, s. 12.

How neglected child brought before judge

**13.—**(1) If it appears to a justice of the peace, on information laid before him on oath,

Warrant to search for neglected child

(a) that there is reasonable cause to suspect that a child is neglected; or

(b) that a ward has been unlawfully removed from the custody of a children's aid society or is being unlawfully concealed or harboured,

the justice may issue a warrant authorizing any person named therein to search for the child or ward and to take him to and detain him in a place of safety.

(2) A person authorized by the warrant may enter, if need be by force, any house, building or other place specified in the warrant and may remove the child or ward therefrom.

Right of entry

(3) It is not necessary in an information or warrant under this section to describe the child or ward by name. 1954, c. 8, s. 13.

Name not necessary

**14.** An executive officer of an infants' or children's home or other public institution having the care or custody of children may, after notifying a children's aid society in writing, bring before a judge any apparently neglected child. 1954, c. 8, s. 14.

Child in institution

**15.** A child detained in a place of safety under section 12 or clause a of subsection 1 of section 13 shall be returned to his parent or guardian or brought before a judge within ten days of his detention. 1954, c. 8, s. 15.

Detention limited

**16.** Section 15 does not apply to a child who is and continues to be in the care of a children's aid society or detained by the society in a place of safety on a voluntary basis with the written consent of the person in whose charge he was immediately before being placed in the care of the society or taken to and detained in a place of safety. 1957, c. 12, s. 3.

Voluntary care or detention

Hearing to  
be held

**17.**—(1) Where a child is brought before a judge as an apparently neglected child, the judge shall hold a hearing and determine whether or not the child is a neglected child, and, if he finds that the child is a neglected child, he shall also determine the child's name, age and religious faith.

Witnesses

(2) The judge has the power of summoning any person and requiring him to give evidence on oath and to produce such documents and things as may be requisite and has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. 1954, c. 8, s. 16 (1, 2).

Who may  
be heard

(3) The judge may hear any person on behalf of the child, the local director of the children's aid society or any person authorized so to do by the board of directors of the society on behalf of the society, the clerk of a municipality or any person authorized so to do by the council of the municipality on behalf of the municipality, and a regional welfare administrator of the Department of Public Welfare or any person authorized so to do by the Minister on behalf of the Province of Ontario. 1956, c. 8, s. 4 (1); 1958, c. 11, s. 1 (1).

Notice to  
municipality  
and parent

(4) The judge shall not proceed to hear or dispose of the matter until he is satisfied that any municipality that may be made liable to pay the rate in respect of the child has had reasonable notice of the hearing and that the parent or the person having the actual custody of the child has had reasonable notice of the hearing or that every reasonable effort has been made in the opinion of the judge to cause them to be notified. 1954, c. 8, s. 16 (4).

Notice to  
Province

(5) Where it appears to the judge that the Province of Ontario may be made liable to pay the rate in respect of the child, he shall not hear or dispose of the matter until he is satisfied that the regional welfare administrator of the Department of Public Welfare having responsibility in the area in which the proceedings are being taken has had reasonable notice of the hearing or that every reasonable effort has been made in the opinion of the judge to cause such official to be notified. 1956, c. 8, s. 4 (2); 1958, c. 11, s. 12 (2).

Taking and  
transcribing  
evidence

(6) The evidence of every witness shall be given under oath and shall be taken down,

(a) where the proceedings are in a juvenile and family court that has a stenographer who is a member of the staff of the court, by that stenographer; and

- (b) where the proceedings are not in a juvenile and family court or where the juvenile and family court does not have a stenographer who is a member of the staff of the court, by a stenographer appointed by the judge,

and the court when requested so to do shall provide a transcript of the evidence within twenty days. 1956, c. 8, s. 4 (3); 1957, c. 12, s. 4 (1).

(7) Stenographers appointed under clause *b* of subsection 6, or the employers of such stenographers, shall be allowed the fees for taking down and transcribing evidence prescribed under *The Magistrates Act*, and such fees shall,

Fees for  
evidence

R.S.O. 1960,  
c. 226

- (a) for taking down evidence, be paid by the municipality to which the child concerned in the proceedings belongs or, where the child belongs to territory without municipal organization, be paid out of moneys appropriated therefor by the Legislature; and

- (b) for transcribing evidence, be paid by the person or authority requesting the transcription. 1956, c. 8, s. 4 (4).

(8) Where a hearing is adjourned, the judge shall make such order for the temporary care and custody of the child as he thinks advisable and he shall name therein the municipality that shall pay *pro tem* the rate in respect of the child. 1954, c. 8, s. 16 (7).

Order on  
adjournment

(9) Where the judge finds the child to be a neglected child, he shall make an order,

Order  
where child  
neglected

- (a) that the case be adjourned *sine die* and that the child be placed with or returned to his parent or guardian or other person subject to supervision by the children's aid society; or
- (b) that the child be committed temporarily to the care and custody of the society for such period, not exceeding twelve months, as in the circumstances of the case he considers advisable; or
- (c) that the child be committed permanently to the care and custody of the society; and

(d) that in cases under clause *b* or *c* the municipality to which the child belongs pay the rate in respect of the child so long as the child remains in the care and custody of the society,

(i) where the child is a child mentioned in section 15, from the day he was detained in a place of safety, or

(ii) where the child is a child mentioned in section 16, from the day he was taken into the care and custody of the society,

but in no case shall that day be more than ten days before the child was brought before the judge as an apparently neglected child. 1954, c. 8, s. 16 (8); 1957, c. 12, s. 4 (2); 1958, c. 11, s. 1 (3).

Order where  
child not  
neglected

(10) Where the judge finds a child mentioned in section 15 not to be a neglected child, he shall make an order that the municipality to which the child belongs pay the rate in respect of the child for the period of the child's detention in a place of safety, but in no case shall the order be made for a period of more than ten days. 1958, c. 11, s. 1 (4).

Contribution  
by parent

(11) Where the judge finds that a parent is able to contribute towards the child's maintenance, he shall in any order made under subsection 8 or clause *b* of subsection 9 or subsection 10, or he may in any order made under clause *c* of subsection 9, order the parent to refund to the municipality the whole or any part of the rate that the municipality has been ordered to pay, but nothing in this subsection relieves the municipality from liability for the rate. 1954, c. 8, s. 16 (10).

Contributions  
may  
be varied

(12) A judge may, upon application by the municipality paying the rate or by a parent ordered to refund the whole or any part of the rate to the municipality under subsection 11 and upon being satisfied that the circumstances of the parent have changed, vary or rescind any order made under subsection 11 or, where no order has been made under that subsection, make an order under it. 1957, c. 12, s. 4 (3).

Enforcement  
of order

(13) An order made against a parent under subsection 11 or 12 may be enforced in the same manner as an order made under *The Deserted Wives' and Children's Maintenance Act*. 1954, c. 8, s. 16 (11); 1957, c. 12, s. 4 (4).

R.S.O. 1960,  
c. 105

Re-opening  
of case  
adjourned  
*sine die*

(14) Where the judge has made an order under clause *a* of subsection 9, the society may at any time bring the case

again before a judge for further consideration and action under this section. 1954, c. 8, s. 16 (12).

(15) Where the child has been committed temporarily to the care and custody of the children's aid society on an adjournment or after the judge has found the child to be a neglected child, the society may at any time during the period of temporary commitment bring the case again before a judge for further consideration and action under this section, and, if the temporary commitment has not been earlier terminated, the case shall, at the expiration of the specified period, again be brought before a judge and the judge shall thereupon further inquire and determine whether the circumstances justify an order returning the child to the parent or guardian or other person in whose charge he is or a further order under subsection 8 or an order or further order under subsection 9, but in no case shall an order be made at any time that results in the temporary commitment of the child for a period of more than twenty-four months from the date of the first order for the temporary commitment of the child. 1958, c. 11, s. 1 (5).

(16) Where a judge has made an order under clause *c* of subsection 9, the society may, at any time during the period of permanent commitment and upon at least thirty days notice in writing to the Director, bring the case before a judge to determine if the welfare of the child might best be served by the termination of the permanent commitment, and, if the judge is satisfied that such action is in the interest of the welfare of the child, he shall terminate the commitment.

(17) Where a child has been temporarily committed to the care and custody of a society, the society shall keep such ward in a suitable place and shall exercise during such period all the rights of the legal guardian of such ward, except as to adoption proceedings under Part IV. 1954, c. 8, s. 16 (14, 15).

(18) Where a child has been permanently committed to the care and custody of a society under this Part or to a society under any predecessor of this Part, the society is the legal guardian of such ward until he has attained the age of eighteen years, or until he is adopted under Part IV, or until some other legal guardian is appointed, or until the wardship is terminated by a judge under subsection 16, or until an extended guardianship under subsection 19 terminates. 1954, c. 8, s. 16 (16); 1956, c. 8, s. 4 (6).



**Extension  
of  
wardship**

(19) Where it is in the interest of the welfare of a ward, a judge may, upon application of the society, make an order extending the wardship for such period as he considers proper beyond the day on which the ward attains the age of eighteen years, but not beyond the day on which the ward attains the age of twenty-one years and, notwithstanding clause *d* of subsection 9, in any such order the judge shall relieve any municipality paying the rate in respect of the ward from liability for the rate during the extended period of wardship. 1954, c. 8, s. 16 (17); 1956, c. 8, s. 4 (7); 1958, c. 11, s. 1 (6).

**Statement  
of facts**

(20) Every order made under this section shall contain a statement of the facts of the case as found by the judge. 1954, c. 8, s. 16 (18).

**Transmis-  
sion of  
copies of  
orders**

(21) The judge shall cause to be transmitted three certified copies of every order made by him under this section to the society, and the society shall transmit one copy to the Director and one copy to the municipality ordered to pay the rate or relieved from liability for the rate. 1956, c. 8, s. 4 (8).

**Access to  
child**

**18.** A judge may, in any case arising under this Part, make such order as he deems proper regarding the right of access to the child by any person or by either parent of the child, having regard to the welfare of the child, the conduct of the person or parent and the wishes of the parents, and may at any time alter, vary or discharge any order so made. 1957, c. 12, s. 5.

**Muni-  
cipality to  
which child  
belongs**

**19.—(1)** For the purposes of this Part, a child,

- (a) who is one year of age or more, shall be deemed to belong to the municipality in which he last resided for a period of twelve months, consecutive or inconsecutive, in the thirty-six month period preceding the day on which proceedings under this Part commenced; or
- (b) who is less than one year of age or who has resided only in the places mentioned in subsection 4, shall be deemed to belong to the municipality in which his mother last resided for a period of twelve months, consecutive or inconsecutive, in the thirty-six month period preceding the day on which proceedings under this Part commenced.

(2) Where the municipality to which a child belongs cannot Idem be determined under subsection 1, a child,

- (a) who is one year of age or more, shall be deemed to belong to the municipality in which he last resided for the greatest number of months, consecutive or inconsecutive, in the thirty-six month period preceding the day on which proceedings under this Part commenced; or
- (b) who is less than one year of age or who has resided only in the places mentioned in subsection 4, shall be deemed to belong to the municipality in which his mother last resided for the greatest number of months, consecutive or inconsecutive, in the thirty-six month period preceding the day on which proceedings under this Part commenced.

(3) In all other cases, a child shall be deemed to belong to Idem the municipality in which he was residing on the day on which proceedings under this Part commenced. 1954, c. 8, s. 17 (1-3).

(4) For the purposes of this section,

Interpre-  
tation

- (a) any period of time during which the child under clause *a* of subsection 1 or clause *a* of subsection 2 or the child's mother under clause *b* of subsection 1 or clause *b* of subsection 2 resided in a children's, infants', maternity or other boarding home, a correctional or charitable institution, a hospital or any home or institution for custodial, medical, educational or other care or supervision, for the purpose of obtaining or receiving custodial, medical, educational, or other care or supervision shall be disregarded;
- (b) any part of a month during which the child or his mother, as the case may be, resides in a municipality shall, if the period is twenty consecutive days or more, be deemed to be one month, and shall, if the period is less than twenty consecutive days, be disregarded;
- (c) any part of a day during which the child or his mother, as the case may be, resides in a municipality shall be deemed to be one day; and

- (d) the expression "day on which proceedings under this Part commenced" means the day on which the child was apprehended or, if he was not apprehended, means the day on which he was brought before a judge as an apparently neglected child. 1954, c. 8 s. 17 (4); 1957, c. 12, s. 6.

Residence  
in territory  
without  
municipal  
organization

**20.** Where it is not possible to determine the municipality to which a child belongs by reason of his residence in territory without municipal organization, he shall be deemed to reside in territory without municipal organization, in which case the Province is responsible for the payment of the rate otherwise payable to the society by municipalities in the area in which the society has jurisdiction, and the other provisions of this Part apply *mutatis mutandis*. 1954, c. 8, s. 18.

Transfer  
of wards

**21.—(1)** Where it is in the interest of the welfare of a ward of a society having jurisdiction in an area other than the area in which the municipality to which the ward belongs is situate, the first-named society may with the written approval of the Director and by written agreement with the society having jurisdiction in the municipality to which the ward belongs apply to a judge for an order transferring the ward to the care and custody of the second-named society and the judge, if he considers it to be in the interests of the welfare of the ward to do so, shall make the order applied for.

Idem

(2) Where a ward is transferred under subsection 1, the society to which he is transferred is vested with the same powers and obligations as the society from which he is transferred. 1954, c. 8, s. 19.

Where more  
than one  
society  
functions

**22.—(1)** Where another society is established to function in an area in which a society is functioning, the second-named society may, with the written approval of the Director and with the written consent of the first-named society, apply to a judge for an order transferring those of its wards it deems proper to the care and custody of the first-named society, and the judge, if he is satisfied that the first-named society would have been the society named in the orders committing the wards to the care and custody of the second-named society had the first-named society been functioning at the time the orders were made, shall make the order applied for.

Alteration  
of juris-  
diction

(2) Any society may, with the approval of the Minister, alter the area over which it has jurisdiction, and where the alteration necessitates the transfer of wards to the care and custody of another society, the transfer shall be made in the same manner as provided under subsection 1.

(3) Where a ward is transferred under subsection 1 or 2, the society to which he is transferred is vested with the same powers and obligations with respect to him as the society from which he is transferred. 1956, c. 8, s. 5.

**23.** A municipality that has made a payment under an order made under this Part for the maintenance of a child in respect of whom another municipality is subsequently ordered to pay the rate may recover the sum so paid from such other municipality. 1954, c. 8, s. 20.

**24.** Where a judge orders a municipality to pay the rate under this Part, there shall be paid to the municipality out of the moneys appropriated therefor by the Legislature an amount equal to 40 per cent of the amount of the net expenditures of the municipality under the order, except that where the order is made against a county the amount otherwise payable to the county under this section shall be paid to each municipality forming part of the county in the proportion that the equalized assessment of the municipality bears to the total equalized assessment of the county. 1954, c. 8, s. 21; 1957, c. 12, s. 7.

**25.** The Lieutenant Governor in Council may make special grants out of the moneys appropriated therefor by the Legislature to any municipality in a territorial district, except a city, or to a provisional county, to relieve, in whole or in part, any such municipality that is unduly burdened in any year by reason of its liabilities under this Part. 1954, c. 8, s. 22.

**26.** The council of any municipality may pass by-laws for the levying of such amounts as are necessary for the purpose of meeting any liability imposed on the municipality under this Part, or for the purpose of affording to a children's aid society such other assistance as the council considers advisable. 1954, c. 8, s. 23.

**27.—(1)** The council of a municipality may by by-law designate one or more members of the council or any employee of the municipality to authorize a children's aid society to furnish temporary care and shelter to a child where the person in charge of the child consents thereto, and where the society furnishes temporary care and shelter to the child it may charge the municipality the rate in respect of the child. 1956, c. 8, s. 6; 1957, c. 12, s. 8 (1).

(2) Where a municipality pays the rate under subsection 1, there shall be paid to the municipality out of the moneys appropriated therefor by the Legislature an amount equal to

40 per cent of the amount of the net expenditures of the municipality under that subsection. 1954, c. 8, s. 24 (2); 1957, c. 12, s. 8 (2).

Establish-  
ment of rates

**28.—**(1) Each children's aid society shall apply annually to a judge before the 25th day of February for an order establishing its rate and shall give reasonable notice to the municipalities within its area of jurisdiction and to such other municipalities as are at that time paying the rate for children in the care of that society of the intention to apply and of the rate to be applied for. 1954, c. 8, s. 25 (1); 1957, c. 12, s. 9.

Idem

(2) The judge shall hear the representations of the society and of such municipalities as desire to be heard and he shall make an order establishing the rate in accordance with the regulations, and such order shall not have retroactive effect before the first day of the calendar year in which it is made. 1954, c. 8, s. 25 (2).

Appeal

**29.—**(1) Within thirty days of the making of an order under this Part, any person, including a society or municipality, may appeal from the order to the Court of Appeal with leave of a judge of the Supreme Court.

Idem

(2) On any such appeal, the Court of Appeal may make such order as the court considers proper. 1954, c. 8, s. 26.

Application  
to Supreme  
Court for  
production  
of child

**30.—**(1) Where a parent applies to a judge of the Supreme Court for an order for the production of a child committed under this Part and the judge is of the opinion that the parent has neglected or deserted the child or that he has otherwise so conducted himself that the judge should refuse to enforce his right to the custody of the child, the judge may in his discretion decline to make the order.

Court may  
order com-  
pensation

(2) If at the time of the application the child is being brought up by another person or has been placed by a children's aid society, the judge, if he directs the child to be given up to the parent, may order the parent to pay to such person or society the whole of the expense properly incurred in bringing up the child, or such part thereof as seems just.

No order  
unless  
parent fit  
person

(3) Where a parent,

(a) has abandoned or deserted his child; or

(b) has allowed his child to be brought up by another person at that person's expense, or by a children's

aid society, for such time and under such circumstances as to satisfy the court that the parent was unmindful of his parental duties,

the judge shall not make an order for the delivery of the child to the parent unless the parent satisfies the judge that, having regard to the welfare of the child, he is a fit person to have the custody of the child.

(4) If the judge is of the opinion that the parent ought not to have the custody of the child and that the child is being brought up in a different religious faith from that in which the parent has a legal right to require the child to be brought up, the judge may make such order as he considers proper to ensure that the child be brought up in that religious faith.

Order as to religious faith

(5) Nothing in this section affects the power of the judge to consult the wishes of the child in determining what order ought to be made or any right that the child possesses to exercise his own free choice. 1954, c. 8, s. 27.

Child's wishes to be consulted

**31.—**(1) A child shall be deemed to have the same religious faith as his father unless it is shown that an agreement has been entered into in writing, signed by his parents, that he be brought up in the same religious faith as his mother.

Presumption as to religious faith

(2) An illegitimate child shall be deemed to have the religious faith of his mother.

Illegitimate child

(3) A Protestant child shall not be committed under this Part to the care of a Roman Catholic children's aid society or institution and a Roman Catholic child shall not be committed under this Part to a Protestant children's aid society or institution, and a Protestant child shall not be placed in the foster care of a Roman Catholic family and a Roman Catholic child shall not be placed in the foster care of a Protestant family, and, where a child committed under this Part is other than Protestant or Roman Catholic, he shall be placed where practicable with a family of his own religious faith.

Religious faith of child

(4) Subsection 3 does not apply to a child detained in a place of safety in a municipality in which there is only one children's aid society.

Where only one society

(5) Notwithstanding anything in this section, the judge may have regard to the wishes of the child in determining what order ought to be made as to his religious faith. 1954, c. 8, s. 28.

Child's wishes to be consulted

Society  
may place  
ward

**32.—(1)** A ward of a children's aid society may be placed by the society for any period of time in a foster home or other suitable place according to the needs of the child, and every ward so placed shall receive an education in accordance with the laws of Ontario and in keeping with his intellectual capacity, and provision for his occupational training and for his physical, mental and spiritual development shall be such as a good parent would make for his own child.

Removal  
of ward

(2) A ward who has been so placed may at any time be removed by the society when, in the opinion of the Director, or the local director, the welfare of the ward so requires. 1954, c. 8, s. 29.

Adoption  
of ward

(3) Where a ward of a society is placed in a foster home and in the opinion of the local director it is in the best interest of the ward to place him in adoption, the foster-parents shall not be denied the opportunity of making application to adopt the ward if they so desire. 1956, c. 8, s. 7.

Interference  
with wards,  
etc.

**33.—(1)** No person shall,

- (a) induce or attempt to induce a ward or a person under the age of eighteen years who is lawfully in the care and custody of an organization that provides care for children to leave the premises in which he has been lawfully placed; or
- (b) detain or harbour a ward or a person under the age of eighteen years who is lawfully in the care and custody of an organization that provides care for children after demand made by a person authorized to require the delivery up of such ward or person; or
- (c) visit, write to, telephone to or otherwise interfere with a ward who is placed in a foster home or other place, or his foster parents, without the consent in writing of the children's aid society.

Offence

(2) Every person who contravenes any provision of subsection 1 is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$500 or to imprisonment for a period of not more than one year or both. 1954, c. 8, s. 30.

Desertion,  
neglect,  
etc., of  
child

**34.—(1)** Any person having the care, custody, control or charge of a child who neglects, abandons, deserts or fails to support the child or inflicts unreasonable cruelty or ill-treatment upon the child not constituting an assault is

guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$500 or to imprisonment for a term of not more than one year or both.

(2) Any person having the care, custody, control or charge of a boy or girl under the age of ten years who leaves the boy or girl unattended for an unreasonable length of time without making reasonable provision for his or her supervision and safety is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$100 and, for any subsequent offence, to a fine of not more than \$200 or imprisonment for a term of not more than one year.

(3) The judge may in connection with any case arising under subsection 1 or 2 hold a hearing in respect of any child concerned and may proceed as though the child was brought before him as an apparently neglected child. 1954, c. 8, s. 31.

**35.—(1)** Every person who,

Causing  
child to beg,  
perform, etc.

- (a) causes or procures a child to be in any public place for the purpose of begging or receiving alms or of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale or otherwise; or
- (b) causes or procures a child to be in any public place for the purpose of singing, playing, or performing for profit or offering anything for sale between 9 o'clock in the afternoon of any day and 6 o'clock in the morning of the following day; or
- (c) subject to subsection 2, causes or procures a child to be at any time for the purpose of singing, playing, or performing for profit or offering anything for sale in any circus, theatre or other place of public amusement to which the public are admitted by payment,

is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$100 or to imprisonment for a term of not more than six months or both.

(2) In the case of an entertainment or series of entertainments to take place in premises used for public entertainment or in a circus, theatre or other place of public amusement, where it is shown that provision has been made to ensure the health and proper treatment of a child proposed to be employed thereat, the head of the council of the municipality may, with the approval of the children's aid

Licence for  
child to  
perform  
in public



society, grant a licence for such time and during such hours of the day and subject to such restrictions and conditions as he thinks fit for any child who in his opinion is a fit and proper person to take part in such entertainment or series of entertainments, and the licence may at any time be varied, added to or revoked by him with the approval of the children's aid society.

Officer to  
supervise  
licensed  
child

(3) The municipal council shall assign to a person the duty of seeing that the restrictions and conditions of any licence granted under subsection 2 are duly complied with, and such person may enter, inspect and examine any place at which the employment of a child is for the time being licensed, and that duty shall be discharged by the chief constable of the municipality until some other person is appointed. 1954, c. 8, s. 32.

Street  
trades,  
girls under  
16 and boys  
under 12;

**36.—**(1) No girl under sixteen years of age and no boy under twelve years of age shall engage in or be licensed or permitted to engage in any street trade or occupation.

boys 12  
to 16

(2) No boy twelve or more years of age and under sixteen years of age shall engage in any street trade or occupation between the hours of 9 o'clock in the afternoon and 6 o'clock in the morning of the following day.

Boy or girl  
under 16  
loitering  
in public  
place at  
night

(3) No boy or girl under sixteen years of age shall loiter in any public place between the hours of 9 o'clock in the afternoon and 6 o'clock in the morning of the following day or be in any place of public resort or entertainment during such hours unless accompanied by his or her parent or guardian or an adult appointed by the parent or guardian to accompany the boy or girl.

Warning

(4) A boy or girl found contravening any provision of this section may be warned by a constable or an officer of a children's aid society and, if the warning is not regarded or after the warning the boy or girl is again found contravening any provision of this section, the boy or girl may be taken by the constable or officer to his or her home or to a place of safety and dealt with as an apparently neglected child.

Offence

(5) A parent who permits his boy or girl to contravene any provision of this section is guilty of an offence and on summary conviction before a judge is liable to a fine of \$5 and, for any subsequent offence, to a fine of \$10. 1954, c. 8, s. 33.

**37.** Where a person is charged with an offence under this Part in respect of a child who is alleged to be under a specified age and the child appears to the judge to be under that age, the child shall for the purposes of this Part be deemed to be under that age unless the contrary is proved. 1954, c. 8, s. 34. <sup>Presumption as to age of child</sup>

**38.—**(1) A child charged with an offence or who is brought before a judge under this Part shall not, before his trial or hearing, be confined in a lock-up or a police cell used for persons charged with crime. <sup>Separate place of detention</sup>

(2) The council of every city, town, village and township shall make provision for the separate detention of every such child prior to his trial or hearing by arrangement with a person or society willing to undertake the responsibility of such detention on such terms as are agreed upon, or by providing suitable premises entirely distinct and separated from the ordinary lock-ups and police cells. <sup>Idem</sup>

(3) A child remanded in custody for sentence or under sentence in jail or other place of confinement shall not be placed or allowed to remain in the same cell or room with or be in the company of adult prisoners. <sup>Idem</sup>

(4) Where an information is laid against a child, the person issuing the process shall at once notify the local director who shall have opportunity allowed him to investigate the charge and the circumstances pertaining thereto. <sup>Notice of charge to be given to local director</sup>

(5) Upon receiving such notice, the local director may make such inquiry as he considers appropriate and report his findings to the judge in court. <sup>Local director may inquire</sup>

(6) Where it appears to the judge that the interest of a child charged with an offence under section 36 will be best served thereby, the child may be dealt with by the judge in the same manner as though the child had been brought before him as an apparently neglected child or the child may be dealt with under *The Training Schools Act*. 1954, c. 8, s. 35. <sup>Alternative proceedings</sup> R.S.O. 1960, c. 404

**39.—**(1) Where a child is brought before a judge under this Part, the hearing shall be held in premises maintained specifically for the purpose or in the private office of the judge or in other suitable premises, but the hearing shall not be held in premises ordinarily used for magistrates' courts. <sup>Place of hearing</sup>

(2) Where a child or parent is brought before a judge for trial or hearing under this Part, the judge shall exclude <sup>Exclusion of public, etc.</sup>

from the room all persons, other than the counsel and witnesses in the case, officers of the law or of a children's aid society and friends and relatives of the child or parent, and he may exclude any or all of the friends and relatives as he thinks proper. 1954, c. 8, s. 36.

Authority  
to bring  
children  
into  
Ontario

**40.**—(1) The Lieutenant Governor in Council may authorize any organization to carry on the work of bringing into Ontario and providing foster homes for neglected or dependent children who are not feeble-minded and who before arrival in Ontario are certified by a duly qualified medical practitioner to be free from disease of any kind.

Records  
to be  
kept

(2) Every such organization shall keep a record in a register prescribed by the Director for that purpose of the names of all children brought into Ontario by it under this section, their ages and such particulars as he requires, and a copy of such record shall be filed with the Director by every such organization on the first days of January and July of each year.

Penalty  
for false  
record

(3) Any person who knowingly makes or is a party to the making of or procuring to be made, directly or indirectly, any false record under subsection 2 is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$500.

Supervision

(4) Every such organization shall maintain careful supervision of every child brought or caused or procured to be brought into Ontario by it until the child attains the age of eighteen years, and it shall cause a personal visit by an agent appointed for that purpose to be made to each such child at least once in every year until the child has attained such age, and, for the protection of the person and earnings of the child, the organization, until the child attains the age of eighteen years, has all the powers and shall perform all the duties by law provided in the case of the guardian of an infant. 1954, c. 8, s. 37.

### PART III

#### PROTECTION OF CHILDREN BORN OUT OF WEDLOCK

Interpre-  
tation

**41.**—(1) In this Part, "judge" means the judge or a junior judge or acting judge of a county or district court, the judge or a deputy judge of a juvenile and family court, or a magistrate where the magistrate is designated by the Lieutenant Governor in Council a judge for the purposes of this Part. 1957, c. 12, s. 10.

(2) Where there is a juvenile and family court, proceedings under this Part shall be heard by the judge or a deputy judge of that court, and, where there is no juvenile and family court, proceedings under this Part shall be heard by the judge or a junior or acting judge of a county or district court or a magistrate designated a judge for the purposes of this Part. 1956, c. 8, s. 8, *part*.

**42.** Nothing in this Part requires a children's aid society to interfere with the care and maintenance of a child born out of wedlock where the child has been adopted in accordance with the laws of Ontario or where the child is being cared for voluntarily by a person whom the society considers suitable to have charge of the child. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 12.

**43.—**(1) Where a child is born out of wedlock and no agreement between the mother and the putative father with respect to the care and maintenance of the child is in force, a society and the mother of the child may enter into an agreement with the putative father of the child for the payment of money by the putative father in respect of the expenses and maintenance mentioned in subsection 1 of section 52, and, if the financial circumstances of the putative father change at any time, the terms of the agreement may be varied by the parties accordingly. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 13 (1).

(2) Where a putative father enters into an agreement under subsection 1 in which he agrees to pay a fixed amount in respect of the maintenance mentioned in subsection 1 of section 52, the agreement shall provide for the fixed amount to be paid within twelve months from the date on which the agreement is made. 1956, c. 8, s. 8, *part*.

(3) The money payable under an agreement made under subsection 1 shall be paid in the first instance to the society that is a party to the agreement. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 13 (2).

(4) The money so paid to a society,

*Idem*

- (a) if it is paid in respect of the expenses mentioned in subsection 1 of section 52, shall be apportioned, if necessary, and paid over by the society in accordance with the circumstances of the case to the person or persons who incurred the expenses;

- (b) if it is paid in periodic payments in respect of the maintenance mentioned in subsection 1 of section 52, shall be paid over by the society to the person having the care and custody of the child; or
- (c) if it is a fixed amount paid in respect of the maintenance mentioned in subsection 1 of section 52, shall be dealt with by the society as provided in section 59. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 13 (3).

Default  
under  
agreement

(5) Where the putative father is in default in payment of money under an agreement made under subsection 1, the mother or the society, or the mother and the society together, may make an application to a judge for an affiliation order, and, where the putative father continues in default for a period of sixty days and an application for an affiliation order has not been made, the society shall within the next following period of thirty days make an application to a judge for an affiliation order. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 13 (4).

Proof of  
paternity

(6) Where an application for an affiliation order is made under subsection 5, the agreement is admissible in evidence as *prima facie* proof that the putative father is in fact the father of the child. 1956, c. 8, s. 8, *part*.

Application  
for affilia-  
tion order

44. In addition to an application under subsection 5 of section 43, an application may be made to a judge for an affiliation order,

- (a) by the mother of a child born out of wedlock;
- (b) by the next friend or guardian of a child born out of wedlock;
- (c) by a society; or
- (d) with the approval of a society, by any person or municipality having an apparently legitimate claim for reimbursement of moneys expended or payments of moneys charged in consequence of the mother's pregnancy, the birth of the child, the death of the child, the maintenance of the child or the maintenance of the mother. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 14.

Death of  
mother

45. A society may institute or continue proceedings under this Part even though the mother has died. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 15.

**46.** No affiliation order shall be made under section 52 <sup>When application to be made</sup> unless the application therefor is made in the lifetime of the putative father, and

- (a) within two years from the birth of the child;
- (b) within one year after the doing of any act on the part of the putative father that affords evidence of acknowledgment of paternity;
- (c) within one year after the return to Ontario of the putative father where he was absent from Ontario at the expiration of the period of two years from the birth of the child; or
- (d) the putative father has failed in whole or in part to carry out the terms of an agreement entered into under this Part. 1956, c. 8, s. 8, *part.*

**47.** In proceedings under this Part, the judge has the power <sup>Powers of judge</sup> of summoning any person and requiring him to give evidence on oath and to produce all documents and things as may be relevant and has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. 1956, c. 8, s. 8, *part.*

**48.** All proceedings under this Part shall be heard by the judge in private. 1956, c. 8, s. 8, *part.* <sup>Proceedings to be private</sup>

**49.** No affiliation order shall be made under section 52 <sup>Corroborative evidence required</sup> upon the evidence of the mother of the child unless her evidence is corroborated by some other material evidence. 1956, c. 8, s. 8, *part.*

**50.**—(1) Where an application for an affiliation order is made to a judge, the judge shall appoint in writing a time and place at which the application will be heard and notice in writing thereof shall be served personally or in such other manner as the judge directs upon the putative father at least seven days before the day so appointed. 1956, c. 8, s. 8, *part.* <sup>Appointment for hearing; notice</sup>

(2) Where the judge is satisfied that there is good and probable cause for believing that the putative father of the child is in fact the father of the child and that the putative father is about to quit the territorial jurisdiction of his court with the intention of avoiding service of the notice in writing referred to in subsection 1 or of evading his obligations in respect of the child and the child's mother, whether before <sup>Arrest of putative father</sup>

or after an affiliation order has been made, the judge may issue a warrant for the arrest of the putative father and upon his arrest may require him to give security for such sum and in such manner and upon such condition as the judge directs, and, if the security is not given, the judge may order the putative father to be imprisoned for a period of not more than three months unless the security is sooner given or the putative father has sooner complied with the condition so imposed. 1956, c. 8, s. 8, *part, amended*.

Affiliation  
order, where  
putative  
father fails  
to appear

**51.** Where the putative father who has been served with notice of the application under section 50 fails to appear at the hearing or to show sufficient reason for not appearing, the judge in the absence of the putative father and upon sufficient evidence being adduced before him may make an affiliation order against the putative father under section 52 or he may make such other order as he considers just. 1956, c. 8, s. 8, *part*.

Affiliation  
order, where  
putative  
father  
appears

**52.—(1)** Where the putative father appears in pursuance of the notice of the application served upon him under section 50, the judge upon sufficient evidence being adduced before him may make an order declaring the putative father to be in fact the father of the child and requiring him, in accordance with the circumstances of the case,

- (a) to pay the reasonable expenses for the maintenance and care, medical and otherwise, of the mother of the child during her pregnancy and at the birth of the child, her burial expenses if she dies as a consequence of her pregnancy or of the birth of the child, and the burial expenses of the child if the child has died; and
- (b) to make periodic payments or to pay a fixed amount for the maintenance of the child until the child attains the age of sixteen years or until the child is adopted under Part IV or until the child dies.

Contribu-  
tion by  
mother

(2) A judge may in an affiliation order made under this section order the mother of the child to make periodic payments or to pay a fixed amount to assist in the maintenance of the child until the child attains the age of sixteen years or until the child is adopted under Part IV or until the child dies.

Considera-  
tions in  
fixing sums

(3) In estimating the amount of the periodic payments or the fixed amount for maintenance to be paid by the father under subsection 1, the judge shall fix such payments or amount as will enable the child to maintain a reasonable standard of life having regard to what the child would have

enjoyed had the child been born in lawful wedlock, but the judge shall take into consideration the ability of the father to provide such payments or amount and the ability of the mother to assist in the maintenance of the child.

(4) Any fixed amount ordered to be paid under this section shall be paid within twelve months from the date of the affiliation order. <sup>When fixed sum to be paid</sup>

(5) Any balance of a fixed amount paid under this section shall, if the child dies before attaining the age of sixteen years, revert to the father or mother, as the case may be, unless otherwise ordered by a judge. <sup>Death of child</sup> 1956, c. 8, s. 8, *part*.

**53.**—(1) Any money payable under an affiliation order made under section 52 shall be paid in the first instance to the judge making the order or to an official of the court designated by the judge. <sup>Payment of money under affiliation order</sup> 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 16 (1).

(2) Any money so paid for expenses under subsection 1 of section 52 shall be apportioned, if necessary, and paid over in accordance with the circumstances of the case to the person or persons who incurred the expenses. <sup>Idem</sup>

(3) Any money so paid as periodic payments for maintenance under subsection 1 or 2 of section 52 shall be paid over to the person having the care and custody of the child on whose behalf the payments were made. <sup>Idem</sup> 1956, c. 8, s. 8, *part*.

(4) Any money so paid as a fixed amount for maintenance under subsection 1 or 2 of section 52 shall be dealt with as provided in section 59 by the judge or the official of the court designated by the judge. <sup>Idem</sup> 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 16 (2).

**54.**—(1) Where an order for the payment of money is made in an affiliation order under this Part and the child for whose benefit the order is made is a public charge or the judge is of the opinion that if there is default in the order the child is likely to be a public charge, the judge may, in the order, order any person required to make payments thereunder to report to a probation officer at such times and places as the judge deems necessary for the purpose of ensuring that such person is complying with the order. <sup>Order to report to officer</sup>

(2) Where a judge orders a person to report to a probation officer under this section, he shall designate the officer and may by further order change the designation. <sup>Officer to be designated</sup>



Failure to  
report

(3) Every person who without reasonable excuse fails to report to a probation officer when ordered so to do under this section is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than three months.

Proof of  
order

(4) An order made under this section certified by the judge or a certificate of a judge as to the making of an order by him is receivable in evidence as proof of the making of such order in any prosecution under this section without proof of the office or signature of the person certifying. 1956, c. 8, s. 8, *part*.

Re-opening  
of applica-  
tion

**55.** Where an application for an affiliation order has been dismissed, a judge may, on the discovery of new evidence or of fraud, grant leave to re-open and may re-open and reconsider the application. 1956, c. 8, s. 8, *part*.

Variation  
of orders

**56.** Where an order for the payment of money has been made in an affiliation order under this Part, a judge may at any time vary or rescind the order for the payment of money as he sees fit and any order so varied may be enforced in the same manner as the original order. 1956, c. 8, s. 8, *part*.

Appeal

**57.**—(1) Within thirty days of the making of an order under this Part, any person may appeal from the order to the Court of Appeal with leave of a judge of the Supreme Court.

Idem

(2) On any such appeal, the Court of Appeal may make such order as the court considers proper. 1956, c. 8, s. 8, *part*.

Enforcement  
of orders

**58.** Any order made under this Part may be enforced in the same manner and by the like proceedings as,

R.S.O. 1960,  
c. 105.

(a) an order made under *The Deserted Wives' and Children's Maintenance Act*;

R.S.O. 1960,  
c. 387

(b) an order made or fine imposed under *The Summary Convictions Act*; or

(c) a judgment of the division court, where the order has been filed with the clerk of a division court, whereupon proceedings by way of execution, garnishment proceedings or judgment summons, *inter alia*, may be used to enforce the order. 1956, c. 8, s. 8, *part*; 1958, c. 4, s. 2.

**59.**—(1) The portion of a fixed amount paid under an agreement made under section 43 or under an affiliation order made under section 52 that is not required immediately by the society that is a party to the agreement or by the judge who made the order, as the case may be, to pay the expenses or the maintenance mentioned in subsection 1 of section 52 shall be paid over to the Public Trustee by the judge or the society. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 17 (1). Money not immediately required

(2) Money so paid over shall be invested by the Public Trustee but is subject to withdrawal of any amounts from time to time upon the written requisition of a judge or of a society. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 17 (2). to be invested

**60.**—(1) An agreement made under section 43 or an order for payment of money in an affiliation order made under subsection 1 of section 52 binds the estate of the putative father or father after his death and any moneys payable thereunder are a debt due from and chargeable upon his estate and are recoverable at the suit of the society in the case of an agreement or the person having the care and custody of the child in the case of an order, but every such agreement or order is, as to any payment falling due before or after his death, subject to review under section 56. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 18. Deceased father's estate bound

(2) No action or other proceeding shall be taken on any such agreement or order after the death of the putative father or father without the leave of a judge of the court in which the action or other proceeding is to be brought, and the judge before granting leave shall direct notice to be given to the widow and legitimate children of the putative father or father and to all other persons interested in his estate. Proceedings after death of father

(3) Where in any such action or other proceeding it appears to the judge that the terms of the agreement or order cannot be carried out without depriving the widow or legitimate children of the putative father or father of necessary maintenance, the judge may, having regard to all the circumstances, vary the agreement or order to such an extent and in such manner as to make equitable provision for the widow, the legitimate child or children and the child or children born out of wedlock. 1956, c. 8, s. 8, *part*. Widow, etc., not to be prejudiced

**61.** A judge has power to direct payment of the costs of any proceeding taken before him under this Part. 1957, c. 12, s. 19. Payment of costs

## PART IV

## ADOPTION

Interpre-  
tation

**62.** In this Part, "child" means a person under or over twenty-one years of age. 1958, c. 11, s. 3, *part*.

Jurisdiction  
of courts

**63.**—(1) The Supreme Court or the county or district court of the county or district in which either the applicant or the child sought to be adopted resides at the time of the application for an adoption order has jurisdiction to make the order.

Application  
to be heard  
in chambers

(2) An application for an adoption order shall be heard and determined in chambers.

Stale  
applications

(3) Where an application for an adoption order is not heard by the court within the twelve months next following the signing of the application by the applicant, it shall not be proceeded with, but another application may be made in its stead.

Guardian  
*ad litem*

(4) For the purpose of an application for an order for the adoption of a child under twenty-one years of age, the court may appoint a person to act as guardian *ad litem* of the child upon the hearing of the application with the duty of safeguarding the interests of the child before the court, and the court may direct the applicant to pay the costs of the person so appointed. 1958, c. 11, s. 3, *part*.

Where order  
may be  
made

**64.** The court may make an order for the adoption of any child resident in Ontario upon application therefor being made in the prescribed manner by a person domiciled in Canada and resident in Ontario. 1958, c. 11, s. 3, *part*.

Where order  
not to be  
made

**65.**—(1) The court shall not make an adoption order,

- (a) where the applicant, or either of joint applicants, is under twenty-five years of age or is less than twenty-one years older than the child sought to be adopted;
- (b) where the applicant is a male and the child sought to be adopted is a female under twenty-one years of age; or
- (c) where the applicant is unmarried, a widow, a widower or a divorced person,

unless the court is satisfied that there are special circumstances that justify, as an exceptional measure, the making of the order.

(2) Except in the case of a joint application by a husband and wife, an order shall not be made for the adoption of a child by more than one person. Adoption by more than one person

(3) An adoption order shall not be made upon the application of a husband or wife without the written consent of the spouse. Consent of adopting spouse

(4) An order for the adoption of a child who is over twenty-one years of age or who is under twenty-one years of age and has been married shall not be made unless the court is satisfied that the child has in fact been in the custody of, brought up, maintained and educated by the applicant as his own child during infancy or until marriage, as the case may be, under a *de facto* adoption. 1958, c. 11, s. 3, *part*. Child over 21 or under 21 and married

**66.**—(1) An order for the adoption of a child under twenty-one years of age who was born in wedlock and who has not been married shall be made only with the written consent of every person who is a parent or guardian or who has lawful custody or control or who is liable to contribute to the support of the child. Consents, where child born in wedlock

(2) An order for the adoption of a child under twenty-one years of age who was born out of wedlock and who has not been married shall be made only with the written consent of the mother given after the child was seven days old, and, where the child resides with and is maintained by the father, with the written consent of the father, but the mother or father may cancel such consent within twenty-one days after it was given by a document in writing to that effect. Idem, where child born out of wedlock

(3) An order for the adoption of a child who is committed permanently to the care and custody of a children's aid society shall be made only with the written consent of the society, in which case no other consent is required. Idem, permanent ward of children's aid society

(4) An order for the adoption of a child who is over twenty-one years of age or who is under twenty-one years of age and has been married shall be made only with the written consent of the child, and, where the child is married, with the written consent of the spouse. Idem, child over 21 or under 21 and married

(5) Where a consent required by this section has not been given, the court may dispense with the requirement if, having regard to all the circumstances of the case, the court is satisfied that it is in the best interests of the child that the requirement be dispensed with. Where consent not given

Where  
consent  
given

(6) Where a consent required by this section has been given, it may be withdrawn by the person giving it only if, having regard to all the circumstances of the case, the court is satisfied that it is in the best interests of the child that the consent be withdrawn. 1958, c. 11, s. 3, *part*.

Affidavit  
of execution

**67.** An affidavit of execution in the prescribed form shall be attached to every consent required under this Part and to every cancellation under subsection 2 of section 66. 1958, c. 11, s. 3, *part*.

Director's  
certificate

**68.**—(1) Subject to subsection 2, an adoption order in respect of a child who is under twenty-one years of age and who has not been married shall not be made unless the Director certifies in writing,

- (a) that the child has resided for six months or more with the applicant and that during that period the conduct of the applicant and the conditions under which the child has lived have been such as in his opinion justify the making of the order; or
- (b) that the applicant is to the knowledge of the Director a proper person to have the care and custody of the child and that for the reasons set out in the certificate it is in the best interests of the child that the period of residence be dispensed with.

Local  
director's  
certificate

(2) In the case of a child referred to in subsection 1 who has been placed for adoption by a children's aid society, the certificate referred to in clause *a* of that subsection is sufficient if it is signed by the local director. 1958, c. 11, s. 3, *part*.

Duty of  
court

**69.** The court before making an adoption order shall be satisfied,

- (a) that every person who has given a consent under this Part understands the nature and effect of the adoption order; and
- (b) that the order will be in the best interests of the child. 1958, c. 11, s. 3, *part*.

Surname

**70.**—(1) Upon an adoption order being made and unless the adoption order provides for the adopted child to retain his surname, the adopted child shall assume the surname of the adopting parent.

(2) In an adoption order, the court may in its discretion <sup>Given name</sup> change the Christian or given name or names as the adopting parent desires, and thereafter the adopted child is entitled to and is to be known by the name or names so given. 1958, c. 11, s. 3, *part.*

**71.** If the adopted child was born out of wedlock, that fact <sup>Born out of wedlock</sup> shall not appear upon the adoption order. 1958, c. 11, s. 3, <sup>not to appear</sup> *part.*

**72.** The papers used upon an application for an adoption <sup>Papers to be sealed up</sup> order shall be sealed up and filed in the office of the court by the proper officer of the court and shall not be open for inspection, except upon an order of the court or the written direction of the Director. 1958, c. 11, s. 3, *part.*

**73.** Within ten days after the making of an adoption order, <sup>Trans-</sup> the proper officer of the court shall cause to be made a sufficient <sup>mission of order</sup> number of certified copies thereof under the seal of the proper certifying authority and shall transmit,

(a) the original order to the adopting parent;

(b) one certified copy to the Director; and

(c) one certified copy to the Registrar General, or, where the adopted child was born outside Ontario, two certified copies to the Registrar General. 1958, c. 11, s. 3, *part.*

**74.—(1)** Upon an application for an adoption order, the <sup>Interim order</sup> court, with the written approval of the Director, may postpone the determination of the application and make an interim order giving the custody of the child sought to be adopted to the applicant for a period not exceeding one year by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision of the welfare of the child and otherwise as the court thinks fit.

(2) An interim custody order is not an adoption order. <sup>Idem</sup>

(3) All consents required for an adoption order are necessary <sup>Consents</sup> for an interim custody order, subject to a like power in the court to dispense with any such consent requirement.

(4) Where an applicant has obtained an interim custody <sup>Residence outside Ontario</sup> order and subsequently takes up residence outside Ontario, the court may nevertheless make the adoption order applied for if the Director makes the certificate mentioned in section 68. 1958, c. 11, s. 3, *part.*

Effect of  
order on  
previous  
adoption

**75.** An adoption order or an interim custody order may be made in respect of a child who has previously been the subject of an adoption order and the adopting parent under the adoption order last previously made shall, if living, be deemed to be the parent of the child for the purposes of this Part. 1958, c. 11, s. 3, *part.*

Status of  
adopted  
child

**76.**—(1) For all purposes the adopted child, upon the adoption order being made, becomes the child of the adopting parent and the adopting parent becomes the parent of the adopted child as if the adopted child had been born in lawful wedlock to the adopting parent.

Idem

(2) For all purposes the adopted child, upon the adoption order being made, ceases to be the child of the person who was his parent before the adoption order was made and that person ceases to be the parent of the adopted child.

Idem

(3) The relationship to one another of all persons, whether the adopted child, the adopting parent, the kindred of the adopting parent, the parent before the making of the adoption order and the kindred of that parent or any other person, shall be determined in accordance with subsections 1 and 2.

Exception

(4) Subsections 2 and 3 do not apply for the purposes of the laws relating to incest and the prohibited degrees of marriage to remove any person from a relationship in consanguinity which, but for this section, would have existed. 1958, c. 11, s. 3, *part.*

Status of  
persons  
heretofore  
adopted

**77.** Every person heretofore adopted under the laws of Ontario and every person adopted under the laws of any other province or territory of Canada or under the laws of any other country shall for all purposes in Ontario be governed by this Part. 1958, c. 11, s. 3, *part.*

Succession  
duty  
R.S.O. 1960,  
c. 386

**78.**—(1) Where duty is levied under *The Succession Duty Act* on the death of an adopted child,

(a) on property passing on his death to or for the benefit of the adopting parent or the kindred of the adopting parent; or

(b) on the adopting parent or the kindred of the adopting parent,

the duty is payable at the same rate and to the same extent as if the adopted child had been born in lawful wedlock to the adopting parent.

(2) Where duty is levied under *The Succession Duty Act* on <sup>Idem</sup> the death of an adopting parent or the kindred of an adopting <sup>R.S.O. 1960, c. 386</sup> parent,

(a) on property passing on the death of the parent to or for the benefit of the adopted child or any issue of the adopted child; or

(b) on the adopted child or issue,

the duty is payable at the same rate and to the same extent as if the adopted child had been born in lawful wedlock to the adopting parent. 1958, c. 11, s. 3, *part*.

**79.**—(1) Every person, other than a children's aid society, <sup>Registration of placement</sup> who places a child with another person on the understanding that the other person will adopt the child shall, within thirty days after the day on which the child is so placed, register the placement with the Director in the prescribed form.

(2) At the request of the Director, a children's aid society <sup>Information</sup> shall, within fifteen days after the receipt of the request, obtain such information respecting a placement as he requires and shall forthwith transmit the information to the Director together with its opinion as to the suitability of the placement.

(3) Every person who fails to comply with subsection 1 is <sup>Offence</sup> guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1958, c. 11, s. 3, *part*.

**80.** Every person who gives or receives or agrees to give or <sup>Penalty for payments in connection with adoptions</sup> to receive any payment or reward, either directly or indirectly, in consideration of the adoption of a child under this Part, or who gives or receives or agrees to give or to receive any payment or reward, either directly or indirectly, to procure a child for the purpose of adoption is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than three years, or to both. 1958, c. 11, s. 3, *part*.

## PART V

### REGULATIONS

**81.** The Lieutenant Governor in Council may make <sup>Regulations</sup> regulations,

(a) prescribing additional duties of the Director;



- (b) prescribing the records that shall be kept by children's aid societies and the returns that shall be made to the Minister under this Act;
  - (c) prescribing provisions to be included in the by-laws of children's aid societies;
  - (d) prescribing the amounts of annual grants to children's aid societies, the manner of computing and paying the grants, and the conditions upon which the grants may be paid;
  - (e) prescribing the formula to be used in establishing the rate;
  - (f) governing the construction, alteration, remodelling, extension and equipment of receiving homes;
  - (g) prescribing rules under which applications under this Act or any Part thereof are to be made, and dealing generally with all matters of procedure under this Act or any Part thereof;
  - (h) for fixing fees, costs, charges and expenses payable on proceedings under this Act or any Part thereof and for dispensing with the payment of such fees, costs, charges and expenses where owing to lack of means or any other reason the judge considers such action advisable;
  - (i) prescribing forms and providing for their use;
  - (j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act or any Part thereof. 1954, c. 8, s. 85; 1956, c. 8, s. 13.
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